



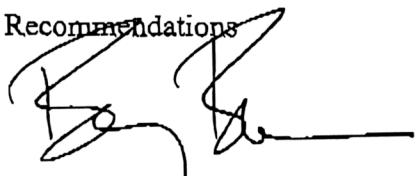
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 29 1998

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

SUBJECT: PRP Search Pilots: Lessons Learned and Recommendations

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This memorandum reports Regional experience with the PRP Search pilots and relays ideas we endorse regarding conducting earlier PRP Searches. The PRP Search pilots provided valuable experience on successful search techniques that should be routinely incorporated into PRP searches new and ongoing.

**Background**

As part of EPA's Superfund Administrative Reforms, the Administrator announced that EPA would pilot several procedures to streamline and improve the potentially responsible party (PRP) search process. The primary goal of the PRP search pilots was to determine whether the time line proposed in H.R.4916, a 1994 bill known as "the Superfund Reform Act" (SRA), was achievable through completion of early PRP searches. In addition, the Regions piloted several techniques to streamline and improve the PRP search process.

In the Spring of 1995, 15 candidate sites were identified where PRP searches had just begun or were about to be initiated. To test the relevant provisions contained in SRA, each pilot site PRP search was structured so that potential de minimis parties would be notified within 12 months after the search start and all other parties would be notified within 18 months after the search start. The PRP searches at the 15 piloted sites varied widely in their scope, reflecting the typical variation in site size, the number of PRPs, nature and extent of contamination, available documentation, and level of State involvement. Additionally, each pilot tested one or more streamlining techniques identified during a national PRP search conference.

### Lessons Learned

The SRA goals of notifying de minimis parties within 12 months and all other PRPs within 18 months of the search start date are unrealistic for most Superfund sites. SRA time frames were too ambitious for the piloted sites, and would most likely be too ambitious for the majority of Superfund sites. None of the 13 sites that had potential de minimis parties notified those parties within 12 months of the search start date. Five sites made the 18 month deadline for notifying all other parties within 18 months of the search start date.

Although the causes of difficulty adhering to the SRA time line were numerous and often site specific, three factors were common to a number of sites:

- many PRPs/complex evidence;
- the particularly difficult nature of the hazardous substances (e.g., mixed radioactive waste); and
- uncooperative PRPs.

The five piloted sites where the 18 month goal was met generally had fewer PRPs and no significant complications. Given ideal circumstances, it appears that some PRP searches can meet the SRA time frames. However, it seems unlikely that PRP searches at larger, more complex sites can regularly be completed this quickly. There is a balance between speed and comprehensiveness in the PRP search process.

### Recommendations

These streamlining techniques were piloted by the Regions and found to be beneficial and improve PRP searches. The following techniques are recommended for inclusion into Regional PRP search activities, where appropriate.

- ☐ **Early Interviews in Place of Multiple Rounds of §104(e) Information Requests, Particularly with Owner/Operators and Employees**

The most successful of the streamlining techniques was the use of early interviews

of parties with knowledge of a site. A number of PRP search teams reported that early interviews were a considerable aid in understanding the nature and history of the site. Getting this information early allowed them to focus the remainder of the PRP search more effectively, and also helped them plan a better investigation of the contamination of the site. For example, an early interview of an owner/operator helped the PRP search team in one Region better understand the business practices leading to contamination of the site. The general manager was able to show PRP search personnel how business records were kept at a treatment and storage facility and how to read those records. The Region was then able to identify other PRPs and use its enhanced understanding of how the site had operated to better focus §104(e) letters sent to those PRPs. By quickly developing the Region's knowledge of the site and its PRPs, the interviews advanced the PRP search process more quickly than sending §104(e) letters to the same people. Similarly, another PRP search team was able to go through the accounts receivable records of a former drum reconditioning facility with an interviewee and identify customers who might be PRPs.

Early interviews also helped conserve the resources of the PRP search team and potential PRPs by clarifying which parties were unlikely to become PRPs and therefore did not need to be sent §104(e) letters. For example, during another PRP search, approximately 20 drivers who had hauled wastes to a dump uniformly denied that any of the wastes had been hazardous, so the Region did not send §104(e) letters to the parties that had generated those wastes.

Much of the success of early interviews can be attributed to the personal contact between the interviewer and the person being interviewed. PRP search personnel noted that interviews are often a more effective information gathering tool rather than a §104(e) letter for a variety of reasons. Some examples include: the interviewer has the opportunity to follow up immediately on important statements rather than sending another letter; people being interviewed often give valuable answers that are much more broad than the original questions; and because eye-to-eye contact allows the interviewer to better judge how forthcoming and truthful the answers are. In addition, one PRP search team member recalled interviewing people with relevant information who, while willing to cooperate, were old, ill, and perhaps illiterate. Under these circumstances, an interview was much more likely to generate useful information than a §104(e) letter. It is helpful to have access to civil investigators early in the PRP search process to assist with these interviews. People who will not consent to be interviewed should receive a §104(e) letter.

#### ■ **New Model Information Request Letters**

New model §104(e) information request letters were transmitted to the Regions by OSRE in June, 1995. The package contained two model letters, one designed to be sent to a large entity and another to be sent to small businesses or individuals. The letter

designed for small businesses and individuals avoided technical language that might confuse or intimidate parties unfamiliar with the CERCLA process. Both letters contained the same administrative reform modifications to earlier §104(e) letters (e.g., including questions soliciting information about other PRPs and requiring PRPs to submit both redacted and unredacted copies of documents containing confidential business information). In one Region, use of letters requesting identification of other PRPs resulted in two major transporters identifying 150 generators that had sent waste to the site. Other Regions reported the new model letters were helpful in eliciting good information. For another Region, the new explanation of how PRPs should address confidential business information in their responses was helpful in guiding PRPs through this process, and moving the information requests into an attachment and leaving the main letters for explanation of the §104(e) process was judged to be clearer than the previous practice of including everything in one document.

▣ **Publicly Available Repository for PRP Search Information (minus CBI and EPA Deliberative Process Documents)**

The primary purpose of the repositories was to allow the PRPs and the public access to all information gathered about the site (largely in the form of responses to §104(e) letters) so that they can help identify more PRPs. A secondary purpose of the repositories was to reduce the volume of Freedom of Information Act (FOIA) requests by allowing direct access to the materials that would otherwise be subject to FOIA requests. Three Regions established public repositories, and each reported that the repository reduced FOIA requests. An additional benefit of this technique was the repositories allowed the local communities to keep informed about what was happening at sites.

▣ **Alternative Means to Follow up/Clarify §104(e) Responses (e.g., phone call followed by letter, return responses with notations/questions written in)**

Only one Region used this technique, however, the PRP search team found the use of phone calls followed by letters to follow up on incomplete or unclear responses to §104(e) letters helpful. This technique accelerated the information collection process by limiting the need for multiple rounds of §104(e) letters.

▣ **Radio Announcements, Newspaper Advertising, and Toll Free Telephone Numbers Found Useful in Sharing Information About the Site and Reducing FOIA Requests**

Although the intended focus of these techniques was gathering information about possible unknown PRPs, the hot lines were most effective for informing callers about the response action at the site. In one Region, the hotline was considered a successful part of the response because of its positive effect on community relations and because the Region received considerably fewer FOIA requests than is typical for a site of that size. In another Region, the use of a hotline was helpful in providing information to PRPs

interested in obtaining copies of documents relating to the site and assisted in information sharing among the PRPs.

### Conclusion

Today's Superfund enforcement program must be supported by a complete PRP search process that includes conducting early and thorough searches, identifying all parties, and promoting greater involvement of PRPs in the PRP search. One method to help reach this goal is by encouraging formal PRP nominations early in the search process. A process for formal PRP nominations is an area we will explore more thoroughly in the near future. The results of the PRP Search pilots, and other PRP search improvement efforts have helped EPA to significantly improve the process, and should be routinely used when appropriate.

OSRE will also continue to incorporate PRP Search enhancement concepts in all relevant Superfund enforcement training programs and materials as well as continued development of PRP Search guidance materials.

Thank you again for participating in the PRP Search pilot project. Your hard work on this important Superfund Reform is very much appreciated. If you have any questions or would like additional information, please contact Lisa Blum at (202)564-4283.

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